

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

MOLLER TECH CORP.,

Defendant.

Civil Action No. 03-XXXXX

HONORABLE VICTORIA A. ROBERTS

COMPLAINT
AND JURY TRIAL DEMAND

NATURE OF THE ACTION MAGISTRATE JUDGE DONALD A. SCHEER

This is an action under Title I of the Americans With Disabilities Act of 1990, and Title I of the Civil Rights Act of 1991, to correct unlawful employment practices on the basis of disability and to make whole Paul Bennett ("Bennett"). The Equal Employment Opportunity Commission alleges that Defendant Moller Tech Corp. violated the Americans with Disabilities Act ("ADA") when it failed to reasonably accommodate Bennett, a qualified individual with a disability, and terminated his employment as a receiving clerk because of his disability, Crohn's Disease.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 107(a) of the Americans With Disabilities Act of 1990 ("ADA"), 42 U.S.C. § 12117(a), which incorporates by reference Sections 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. §§ 2000e-5(f)(1) and (3), and pursuant to Section 102 of the Civil Rights Act of 1991, as amended, 42 U.S.C. Section 1981(a).

2. The employment practices hereafter alleged to be unlawful were committed in the Eastern District of Michigan, Southern Division.

PARTIES

3. The Plaintiff, Equal Employment Opportunity Commission (the "Commission"), is an agency of the United States of America charged with the administration, interpretation and enforcement of Title I of the ADA and is expressly authorized to bring this action by Section 107(a) of the ADA, 42 U.S.C. § 12117(a), which incorporates by reference Sections 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

4. At all relevant times, Defendant Moller Tech was doing business in the State of Michigan and the County of Macomb, and has continuously had at least fifteen (15) employees.

5. At all relevant times, Defendant Moller Tech was continuously engaged in an industry affecting commerce within the meaning of Section 101(5) of the ADA, 42 U.S.C. § 12111(5), and Section 101(7) of the ADA, 42 U.S.C. § 12111(7), which incorporates by reference Section 701(g) and (h) of Title VII, 42 U.S.C. § 2000e(g) and (h).

6. At all relevant times, Defendant Moller Tech was a covered entity under Section 101(2) of the ADA, 42 U.S.C. § 12111(2).

STATEMENT OF CLAIMS

7. More than thirty (30) days prior to the institution of this lawsuit, Bennett filed a charge with the Commission alleging violations of Title I of the ADA by Defendant Moller Tech. All conditions precedent to the institution of this lawsuit have been fulfilled.

8. Beginning in March 2001, Defendant Moller Tech engaged in unlawful employment practices in violation of the ADA Sections 102(a), 102(b)(5)(A) and 102(b)(5)(B), 42 U.S.C. §§ 12112(a), 12112(b)(5)(A) and 12112(b)(5)(B). The Defendant's practices include, but are not limited

to, failing to reasonably accommodate Bennett's need for a 40-hour work week, which was necessary because of his disability, and engaging in discriminatory conduct toward Bennett because of his disability.

9. Bennett is a qualified individual with a disability who was able to perform the essential functions of his position with or without a reasonable accommodation.

10. The effect of the above-mentioned unlawful employment practices has been to deprive Bennett of equal employment opportunities because of his disability.

11. The above-mentioned unlawful employment practices were intentional.

12. The effect of the above-mentioned unlawful employment practices has been to cause Bennett to suffer a loss of enjoyment of life.

13. The unlawful employment practices complained of above were committed with malice and a reckless indifference to Bennett's federally protected rights.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court:

A. GRANT a permanent injunction enjoining Defendant Moller Tech, its officers, successors, assigns and all persons in active concert or participation with it, from engaging in any unlawful employment practice which discriminates on the basis of disability;

B. ORDER Defendant Moller Tech to institute and carry out policies, practices, and programs which provide equal employment opportunities for individuals with disabilities, and which eradicate the effects of its past and present unlawful employment practices;

C. ORDER Defendant Moller Tech to provide training to its management employees regarding disability discrimination and the ADA's requirement to provide a reasonable accommodation to disabled employees;

D. ORDER Defendant Moller Tech to make whole Bennett by providing him with appropriate lost earnings and benefits, with pre-judgment interest, in amounts to be proven at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices;

E. ORDER Defendant Moller Tech to make whole Bennett by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraph 8 above, in amounts to be proven at trial.

F. ORDER Defendant Moller Tech to pay Bennett punitive damages for the malicious or reckless conduct described in paragraph 8 above, in amounts to be proven at trial.

G. GRANT the Commission its costs in this action; and


H. GRANT such further relief as the Court deems necessary and proper.

Respectfully submitted,

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